

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

MARC UPCHURCH,

Plaintiff,

v.

**COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

Case No. 20-CV-245-JFH-SPS

ORDER

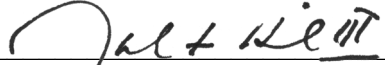
Before the Court is the Findings and Recommendation of United States Magistrate Judge Steven P. Shreder reviewing Plaintiff's Motion for Attorney Fees Under 42 U.S.C. § 406(b). Dkt. No. 29.

Neither party objected to Magistrate Judge Shreder's Findings and Recommendation within the 14-day period prescribed by 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b). Having reviewed the Findings and Recommendation, the Court concurs with Magistrate Judge Shreder's recommendation, and accepts and adopts it as the order of the Court.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Attorney Fees Under 42 U.S.C. § 406(b) [Dkt. No. 26] is GRANTED. Plaintiff's counsel is awarded fees in the amount of \$16,963.48 to be paid by Defendant directly to counsel from the amount of past due benefits withheld for that purpose.

IT IS FURTHER ORDERED that Plaintiff's counsel refund the smaller amount between any EAJA fees already awarded and the § 406(b) fees awarded in this decision to Plaintiff. *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Dated this 29th day of March 2023.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE